

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
Closed Captioning of Video Programming)	CG Docket No. 05-231
)	
Telecommunications for the Deaf and Hard of)	
Hearing, Inc. Petition for Rulemaking)	
)	
Telecommunications for the Deaf and Hard of)	RM-11848
Hearing, Inc. et al. Petition for Declaratory)	
Ruling and/or Rulemaking on Live)	
Closed Captioning Quality Metrics and the)	
Use of Automated Speech Recognition)	
Technologies)	

Reply Comments of the Radio Television Digital News Association

The Radio Television Digital News Association (“RTDNA”)¹, by its counsel, hereby submits its reply comments respectfully opposing the petition for declaratory ruling and petition for rulemaking (“Petition”) filed by Telecommunications for the Deaf and Hard of Hearing Inc., et al. (“Petitioners”).²

For several decades, RTDNA and its members have been committed to improving the accessibility of news programming for the deaf and hearing impaired. From the time the Commission first adopted its closed captioning rules in 1997, to the actions taken in 2014 to create specific quality standards and certified adherence to best practices, through to the meeting of consumer advocates and industry representatives about caption quality held earlier this month, RTDNA, along with the National Association of Broadcasters (“NAB”) and other representatives of

¹ The Radio Television Digital News Association (“RTDNA”) is the world's largest professional organization devoted exclusively to broadcast and digital journalism. Founded in 1946, RTDNA’s mission is to promote and protect responsible journalism.

² *Petition for Declaratory Ruling and/or Rulemaking on Live Closed Captioning Quality Metrics and the Use of Automatic Speech Recognition Technologies*, Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI) et al., CG Docket No. 05-231 (July 31, 2019) (“Petition”).

the video distribution community, has consistently engaged with the Commission and with stakeholders to listen to concerns and to encourage action on the part of its members to monitor, assess, and improve.³ This long-standing commitment on the part of broadcasters—and broadcast newsrooms—has taken many forms, including devoting considerable resources to continued dialogue both on the national and local level, the creation of training programs, the implementation of and adherence to best practices and, above all, vigilance on the ground to ensure that video programming is accessible to all Americans. RTDNA’s Executive Director, Dan Shelley, recently was appointed to the Commission’s Disability Advisory Committee, and looks forward to working with all stakeholders toward the shared goal of improved accessibility to news programming.

Against this backdrop, RTDNA agrees with NAB that a change in course at this time is premature and would prove to be counterproductive. RTDNA respectfully submits that (1) closed captioning has markedly improved under the current best practices framework; (2) a metrics-based system for assessing caption quality would be unduly burdensome to RTDNA’s members and undermine the integrity of their news operations; and (3) premature rules governing the use of automatic speech recognition (ASR) technology would stymie ongoing innovation in closed captioning technology.

First, RTDNA emphasizes that actions already taken by the Commission are proving to be successful in ensuring the quality of closed captioning. The current framework requires that all video providers offer captions that are accurate, synchronous, complete, and appropriately placed.⁴ Notably, the Commission declined to adopt technical caption quality metrics or to impose a heavy-

³ See generally Closed Captioning and Video Description of Video Programming, *Report and Order*, 13 FCC Rcd 3272 (1997); Closed Captioning of Video Programming Telecommunications for the Deaf and Hard of Hearing, Inc. Petition for Rulemaking, *Report and Order, Declaratory Ruling, and Second Further Notice of Proposed Rulemaking*, 29 FCC Rcd. 2221 (2014) (“2014 Report and Order”).

⁴ See 2014 Report and Order at ¶¶ 26-33 (2014).

handed compliance regime, instead establishing best practices that would “provide flexibility to the captioning industry and promote innovation in the use of captioning techniques.”⁵

While Petitioners assert that “captioning for live programming is continuing to fall short of the Commission’s requirements of accuracy, synchronicity, completeness, and placement,”⁶ the evidence simply does not support this conclusion. RTDNA’s members have worked diligently to comply with the Commission’s closed captioning requirements, and they have made great strides in improving the quality of this important service. As NAB describes, the number of complaints filed with the FCC regarding closed captioning quality has decreased significantly following the adoption of the 2014 Report and Order.⁷ Contrary to the Petitioners’ claim that video programmers are taking a “check-the-box approach,”⁸ many of RTDNA’s members have invested significant time and resources into establishing proper procedures for training their staff, engaging reliable captioning vendors, pre-scripting coverage (including live, on-scene reporting), and conducting performance reviews. As a result, RTDNA’s members generally report receiving very few consumer complaints related to the quality of the closed captioning provided.

Second, RTDNA believes that the Petitioners’ call for the Commission to adopt “objective metrics” coupled with a “rigorous monitoring and compliance regime”⁹ is precisely the kind of heavy-handed regulatory solution the Commission was appropriately careful to avoid in 2014.

After thoughtful consideration of a robust record, the Commission established closed captioning

⁵ Id. at ¶ 38.

⁶ Petition at 12.

⁷ See *Opposition to Petition for Rulemaking of the National Association of Broadcasters*, CG Docket No. 05-231, at 7-8 (filed Oct. 15, 2019) (“NAB Opposition”) (explaining that during the five-year period from 2009 through 2013, the FCC received an average of 465 complaints related to closed captions per year. From 2015 through 2018, the average number of complaints dropped to 270 per year).

⁸ Petition at 7.

⁹ Id. at 14-16.

rules that struck a delicate balance “to ensure better captioning quality without unduly burdening VPDs and programming providers.”¹⁰ Petitioners have failed to show any significant changes in the industry over the relatively brief period since implementation of the rules governing quality that warrant a change in course. As NAB points out, Petitioners concede that the task of creating such metrics “has not become substantially simpler since 1997,” and the research effort that purports to develop metrics for caption quality is not expected to be completed for three to four years.¹¹ Thus, any regulatory paradigm that would move to metrics would be premature and impose burdens without benefit.

To the contrary, the approach the Commission has adopted to date, coupled with thoughtful discussions among stakeholders about improvements, has proven effective. NAB points out how broadcasters have every incentive to make video programming accessible through quality captioning, and RTDNA can confirm that from the perspective of those who create news content.¹² News organizations have invested significantly in implementing processes based on the best practices framework. Upending that framework with stringent new metrics will serve only to hamper the the ability of these organizations to invest in creating standards and control measures that work within their organizations, as well as their flexibility to make sensible technical and procedural improvements that benefit their viewers, including the deaf and hard of hearing.

Further, as NAB aptly described in their comments, the imposition of stringent metrics will fail to account for the range of circumstances that affect caption quality and will likely force live captioners to abandon good judgement for verbatim live captions.¹³ And, as Meredith Corporation emphasized, a heavy handed enforcement mechanism will inevitably fail to account for the human

¹⁰ 2014 Report and Order at ¶ 42.

¹¹ See NAB Opposition at 2.

¹² See id. at 3.

¹³ See id. at 10-11.

elements of captioning, ultimately undermining the quality of captioning rather than improving it.¹⁴ While some amount of error is inevitable in live closed captioning, the Commission should resist the temptation to make the perfect the enemy of the good, particularly in light of the steady and continuing improvement of caption quality.

Lastly, RTDNA respectfully opposes any attempt to impose requirements for ASR technology. While RTDNA and its members are cautiously optimistic about the promise ASR technology holds for resolving many of the challenges inherent in live captioning, RTDNA is also aware that the application of the technology for closed captioning is still in its infancy. In order to understand its full potential, content creators and distributors must have the flexibility to experiment with the technology within the confines of their closed captioning compliance programs. While the Petitioners assert that the best practices framework is “not a workable approach for the diverse, modern landscape of live captioning methodologies and technologies,”¹⁵ RTDNA submits that the nature of the evolving closed captioning landscape is precisely what demands rules that allow video providers flexibility in how they ensure accurate, synchronous, complete, and appropriately placed captioning.

News organizations and local stations continue to make great strides toward increasing the accessibility of local news and public affairs programming to the deaf and hard of hearing community. To be sure, there is still work to be done. History has demonstrated that video programming creators and distributors, those developing relevant new technologies, and the deaf and hard of hearing community have worked successfully together to move the availability and quality of captioned programming forward. The Commission’s approach is working, and there is

¹⁴ See *Comments of Meredith Corporation*, CG Docket No. 05-231, at 1-2 (filed Oct. 15, 2019) (“Meredith Corporation Comments”).

¹⁵ Petition at iv.

no evidence to suggest that a metrics-based enforcement scheme would do anything but impede progress. Moreover, the Commission should leave the industry free to evaluate new captioning techniques within the context of existing best practices.

Respectfully submitted,

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Date: October 30, 2019